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OFFICE OF PETITIONS

In re Application of :  
Sekiguchi et al. :  
Application No. 10/749,588 :  
Filed: 2 January, 2004 :  
Attorney's Docket No. FUR0005-DIV.7 :

ON PETITION

This is a decision on the petition filed on 20 April, 2004, under 37 CFR 1.182, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 2 January, 2004, with Figure 14 described in the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 2 January, 2004.

Accordingly, on 15 April, 2004, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application, stating that the application had been accorded a filing date of 2 January, 2004, but that Figure 14 described in the specification appeared to have been omitted.

In response, on 20 April, 2004, the present petition and one sheet of drawing containing Figure 14 were filed. Petitioners argue that Figure 14 was filed with the other application papers on 2 January, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office date" stamp of 2 January, 2004, and identifies the application by the first named inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, "Drawings-49 sheets - 53 total figures". Petitioners request that the application, including one sheet of drawings containing Figure 14, be accorded a filing date of 2 January, 2004.

A review of the record reveals that 48 sheets of drawings were received on 2 January, 2004. No Figure 14 is located among the drawing figures received on that date. However, the evidence is convincing that the application papers deposited on 2 January,

2004, included one (1) sheet of drawings containing Figure 14, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 14, is entitled to a filing date of 2 January, 2004.

The "Notice" mailed on 15 April, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of \$130.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-1390.

The application will be processed with the copy of Figure 14 supplied on 20 April, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 2 January, 2004, using the application papers filed on that date, and the copy of drawing Figure 14 supplied with the present petition.

Telephone inquiries should be directed to the undersigned at 703-308-6918.



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